

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 MERRY WEST,)
11 Petitioner,) 2:10-CV-02086-JCM-RJJ
12 vs.)
13 SHERYL FOSTER,) ORDER
14 Respondent.)

This is a petition for writ of habeas corpus filed by petitioner Merry West, appearing pro se. Petitioner has also filed a motion for reconsideration of the court's order denying her motion to appoint counsel (ECF No. 9). She has recently written a letter to the court regarding that motion (ECF No. 13). Letters to the court and other *ex parte* communications are permitted only in the case where a matter has been submitted for decision for longer than 60 days, which is not the case here. *See Local Rules of Practice 7-6.* Petitioner is discouraged from writing letters to the court or the clerk of the court, and such communications, except as allowed above, shall be stricken from the record. The
is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), cert. denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case are such that

1 denial of counsel would amount to a denial of due process, and where the petitioner is a person of such
2 limited education as to be incapable of fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see*
3 *also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).

4 As previously noted, petitioner is incarcerated for a term of ten years to life on a
5 conviction for larceny from a person over 60 with a habitual criminal adjudication. In her petition for
6 writ of habeas corpus, petitioner raises five claims for relief. The petition presents a coherent document,
7 which is well written. In her renewed motion for counsel, petitioner points out that she has serious
8 health issues causing her to be hospitalized on occasion. She contends she is unable to effectively
9 represent herself in this matter due to her lack of familiarity with the law. She acknowledges that she
10 has been able to obtain the assistance of another inmate in preparing her petition. Petitioner has not
11 demonstrated to the court that she would be denied due process if counsel is not appointed. The motion
12 to reconsider appointment of counsel shall be denied.

13 **IT IS THEREFORE ORDERED** that the motion to reconsider appointment of counsel
14 (ECF No. 9) is **DENIED**.

15 Dated this 12th day of April, 2011.

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UNITED STATES DISTRICT JUDGE
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